

Exhibit 2

From: [Freedman, John A.](#)
To: [Bailey, Kate \(CIV\)](#)
Cc: [Case, Andrew](#); [Federighi, Carol \(CIV\)](#); [Coyle, Garrett \(CIV\)](#); [Ehrlich, Stephen \(CIV\)](#); [Goldstein, Elena](#); [McGuinness, John](#); [Thomas, Tina \(TThomas@cov.com\)](#); [Niyati Shah \(nshah@advancingjustice-aajc.org\)](#); [Colangelo, Matthew](#); [Gersch, David P.](#); [pbduke@cov.com](#); [asenteno@MALDEF.org](#); [Denise M. Hulett \(dhulett@maldef.org\)](#); [Todd Grabarsky \(Todd.Grabarsky@doj.ca.gov\)](#)
Subject: Re: Depositions This Week
Date: Wednesday, October 10, 2018 4:00:59 PM

Counsel --

Thank you for the clarification. While we do not believe your interpretation of the scope of the stay is consistent with Justice Ginsburg's order, for the avoidance of doubt, we understand that Dr. Abowd's expert report addresses issues of standing, and accordingly per your interpretation of the scope of the stay, we will plan to see him for his deposition on Friday. For security purposes, please send us your attendee information as soon as you have it.

If you do not make Dr. Abowd available on Friday, we will cite your failure to produce him for deposition before the discovery cutoff as an additional ground why his expert testimony should be excluded at trial.

Please also provide us with tentative dates for availability including Friday 10/12 (when we understand from your prior emails John Gore is available) through the end of next week (Friday 10/19) for the depositions of John Gore and Commerce Secretary Ross, conditional upon the stay being lifted with respect to either or both witnesses.

Thank you,

John

On Oct 10, 2018, at 12:09 AM, Bailey, Kate (CIV) <Kate.Bailey@usdoj.gov> wrote:

Andrew,

Thank you for writing to confirm next steps for this week's schedule.

We agree with you that Justice Ginsburg's order does not affect discovery related to standing, and you are correct that we did not seek a stay of discovery related to Plaintiffs' standing. Accordingly, we will proceed as planned with the scheduled depositions of Plaintiffs' experts and the remaining individual members of plaintiff organizations.

Regarding the depositions of Langdon and Park-Su, on the other hand, we do understand Justice Ginsburg's order to include a stay of further fact discovery, as such discovery was initially authorized by Judge Furman's July 3rd order and later authorized to the same extent by Judges Seeborg and Hazel. Mr. Langdon and Ms. Park-Su will thus not be made available while the Supreme Court's stay is in place but, should the Court ultimately deny Defendants' mandamus petition, the four remaining fact deponents will promptly be made available, including after the scheduled close of discovery, if necessary.

Thank you for your understanding and flexibility.

Kate Bailey

----- Original message -----

From: "Case, Andrew" <ACase@manatt.com>

Date: 10/9/18 10:19 PM (GMT-05:00)

To: "Bailey, Kate (CIV)" <katbaile@CIV.USDOJ.GOV>, "Federighi, Carol (CIV)" <CFederig@CIV.USDOJ.GOV>, "Coyle, Garrett (CIV)" <gcoyle@CIV.USDOJ.GOV>, "Ehrlich, Stephen (CIV)" <sehrlich@CIV.USDOJ.GOV>

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Subject: Depositions This Week

Kate,

We saw the order staying certain orders in the New York cases tonight. We are writing regarding the fact depositions noticed by the California and Maryland plaintiffs and the expert depositions that you have planned over the next few days.

The California and Maryland plaintiffs have noticed the deposition of David Langdon tomorrow and Sahra Park-Su for Thursday. Both were noticed pursuant to Judge Seeborg's 8/17 order and Judge Hazel's 8/20 and subsequent orders, none of which have been stayed.

In addition, there are expert depositions scheduled over the next few days, including Thompson (tomorrow), Barreto (Thursday), Habermann (Friday), and Abowd (Friday). You argued in your 9/21/18 mandamus reply in the Second Circuit that you were not seeking relief from orders that "permit expert discovery on collateral matters such as plaintiffs' standing." These experts have been made available after careful coordination. Numerous attorneys are now in transit to conduct and defend these depositions, and we cannot guarantee that these experts will be available again.

We therefore understand that the expert and fact depositions (aside from Ross and Gore) scheduled for the next few days will go forward as scheduled.

Thank you,

Andrew

Andrew Case

Associate

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